THE HON'BLE Ms. JUSTICE G. ROHINI

-

WRIT PETITION NO.5259 OF 2005

Dated : 14th December, 2005.

Between:

B. Sarmas Saheb … Petitioner

And

The Superintendent, Govt. Maternity

Hospital, Nayapul, Hyderabad. … Respondent

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.5259 OF 2005

-

ORDER :

The petitioner herein is aggrieved by the alleged action of the respondent in not allowing the parking place in terms of the Re-tender Notification dated 3-4-2004. It is stated that in pursuance of the Re-tender Notification dated 3-4-2004 issued by the respondent herein inviting tenders for running cycle-stand in the premises of New Admission Room, Blood Bank and Out-patient Building of Government Maternity Hospital, Hyderabad, the petitioner has submitted his bid and he was declared as successful bidder. In pursuance thereof, the respondent by order dated 29-4-2004 directed the petitioner to pay the lease amount of Rs.2,88,000/- within three days. In compliance of the same, the petitioner has deposited the lease amount. As per the

Re-tender Notification dated 3-4-2004 as well as the order of the respondent dated 29-4-2004 the contract was valid upto 31-3-2005. However, the petitioner alleges that the respondent failed to hand over the parking place at New Admission Room which was contrary to the terms and conditions of the tender notification. That apart, due to renovation works that have been taken up by the respondent, the parking of the vehicles inside the premises was restricted which has adversely affected the income of the petitioner. In the circumstances, the petitioner claims that the respondent ought to have extended the period of contract beyond 31-03-2005. To that effect, the petitioner has made several oral requests, but the respondent failed to consider the same. Hence, this writ petition.

The respondent filed a counter-affidavit denying the allegations made by the petitioner and stating that the parking place at the New Admission Room was not allotted to the petitioner. It is further stated that the parking place given to the petitioner was well identified and demarcated with specific timings. As a matter of fact, due to construction of the new block, the petitioner was provided more space. Hence, the claim of the petitioner for extension of period of contract is misconceived.

Having heard the learned Counsel for both the parties and having perused the material on record, at the outset it is to be noted that admittedly the lease period was upto 31-03-2005. In the Re-tender Notification dated 3-4-2004 as well as the office proceedings while allotting the contract in favour of the petitioner, it was specifically mentioned that the contract was valid upto 31-03-2005. Even assuming that the allegation of the petitioner that the respondent did not hand over one of the parking places contrary to the terms of the tender notice is correct, the remedy of the petitioner, either for proportionate damages or for any other relief lies elsewhere, but the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India cannot be invoked for enforcement of contractual obligation arising out of a non-statutory concluded contract.

It is also relevant to note that admittedly the petitioner is not running the business as on today. The learned Counsel for the petitioner across the bar submits that the respondent issued a fresh tender notification dated 26-11-2005. If that be so, it is always open to him to participate in pursuance of the said tender notification.

So far as his claim with regard to the loss suffered by him due to the alleged action of the respondents in not handing over a part of the parking place is concerned, liberty is granted to the petitioner to work out the appropriate remedy as available under law. With regard to the claim of the petitioner for refund of Earnest Money Deposit (E.M.D.) and the deposits made by him, it is open to him to make an appropriate application, in which event the respondent shall consider the same and pass appropriate orders in accordance with law within a period of four weeks from the date of the said application.

Accordingly, the Writ Petition is disposed of. No costs.

_____

G. ROHINI, J.

Dt. 14-12-2005

gbs